

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

V.

STEFAN BUCK,

Defendant.

Criminal Action No. 13 Cr. 282 (JSR)

**AFFIRMATION IN SUPPORT  
OF MOTION TO QUASH  
ATTORNEY SUBPOENAS**

Henry E. Klingeman hereby affirms as follows:

1. I am an attorney admitted to practice in the United States District Court for the Southern District of New York and a member of the law firm of Krovatin Klingeman LLC.
2. I make this affirmation in support of Krovatin Klingeman LLC's motion for an Order pursuant to Fed. R. Crim. P. 17(c)(2) to quash the Court subpoenas dated October 3, 2017, served on Henry E. Klingeman and Helen A. Nau, seeking their testimony and production of documents at trial on October 30, 2017 (the "Attorney Subpoenas").
3. Attached hereto as Exhibit A is a true copy of the Attorney Subpoenas.
4. Attached hereto as Exhibit B is a true copy of the production letters to the United States Attorney's Office for the Southern District of New York, dated January 15, 2013, February 12, 2013, and March 28, 2013.

Dated: October 19, 2017

/s/ Henry E. Klingeman  
Henry E. Klingeman  
hklingeman@krovatin.com  
KROVATIN KLINGEMAN LLC  
60 Park Place, Suite 1100  
Newark, NJ 07102  
(973) 424-9777

# Exhibit A

Court Subpoena

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**United States District Court**  
**SOUTHERN DISTRICT OF NEW YORK**

TO: Henry A. Klingeman, Esq.

GREETINGS:

WE COMMAND YOU that all and singular business and excuses being laid aside, you appear and attend before the United States District Court for the Southern District of New York, 40 Foley Square, in the Borough of Manhattan, City of New York, New York, in the Southern District of New York, at the following date, time and place:

Appearance Date: October 30, 2017 Appearance Time: 9:00 a.m.

Appearance Place: Courtroom 11B (Courtroom of Hon. Victor Marrero)

to testify and give evidence in the following matter:

*United States v. Stefan Buck*, 13 Cr. 282 (VM)

and not to depart the Court without leave thereof, or of the United States Attorney, and that you bring with you and produce at the above time and place the following:

Krovatin Klingeman LLC's January 15, 2013, February 12, 2013, and March 28, 2013 document productions to the United States Attorney's Office of the Southern District of New York on behalf of Bank Frey & Co. AG, along with the cover letters from Krovatin Klingeman LLC that accompanied each of these document productions.

Failure to attend and produce any items hereby demanded will constitute contempt of court and will subject you to civil sanctions and criminal penalties, in addition to other penalties of the Law.

DATED: New York, New York  
October 3, 2017

*Joan H. Kim / SEP*

JOON H. KIM

*Acting United States Attorney for the  
Southern District of New York*

*[Signature]*

Sarah E. Paul / Won S. Shin

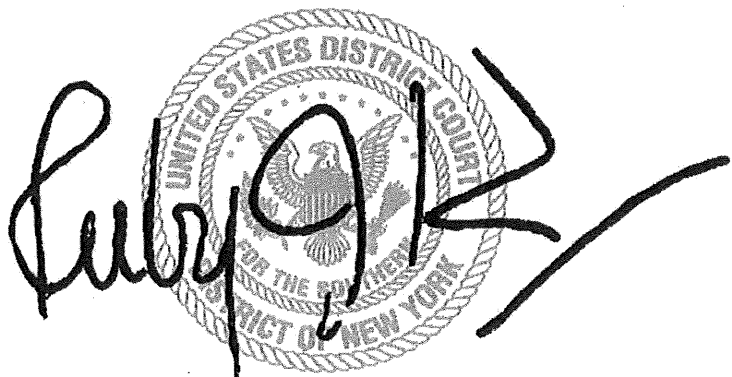
Assistant United States Attorneys

One St. Andrew's Plaza

New York, New York 10007

Telephone: 212-637-2326/2226

Won.Shin@usdoj.gov



Court Subpoena

**United States District Court**  
**SOUTHERN DISTRICT OF NEW YORK**

TO: Helen A. Nau, Esq.

GREETINGS:

WE COMMAND YOU that all and singular business and excuses being laid aside, you appear and attend before the United States District Court for the Southern District of New York, 40 Foley Square, in the Borough of Manhattan, City of New York, New York, in the Southern District of New York, at the following date, time and place:

Appearance Date: October 30, 2017 Appearance Time: 9:00 a.m.

Appearance Place: Courtroom 11B (Courtroom of Hon. Victor Marrero)

to testify and give evidence in the following matter:

*United States v. Stefan Buck*, 13 Cr. 282 (VM)

and not to depart the Court without leave thereof, or of the United States Attorney, and that you bring with you and produce at the above time and place the following:

Krovatin Klingeman LLC's January 15, 2013, February 12, 2013, and March 28, 2013 document productions to the United States Attorney's Office of the Southern District of New York on behalf of Bank Frey & Co. AG, along with the cover letters from Krovatin Klingeman LLC that accompanied each of these document productions.

Failure to attend and produce any items hereby demanded will constitute contempt of court and will subject you to civil sanctions and criminal penalties, in addition to other penalties of the Law.

DATED: New York, New York  
October 3, 2017

*Joan H. Kim / SEP*  
JOON H. KIM  
Acting United States Attorney for the  
Southern District of New York

*Sarah E. Paul / Won S. Shin*  
Sarah E. Paul / Won S. Shin  
Assistant United States Attorneys  
One St. Andrew's Plaza  
New York, New York 10007  
Telephone: 212-637-2326/2226  
Won.Shin@usdoj.gov



# Exhibit B



60 PARK PLACE, SUITE 1100, NEWARK, NJ 07102 973-424-9777 WWW.KROVATIN.COM

GERALD KROVATIN  
HENRY E. KLINGEMAN\*\*  
HELEN A. NAU\*  
ANNA G. COMINSKY\*

ALSO ADMITTED IN HI AND PA\*\*  
ALSO ADMITTED IN NY\*

January 15, 2013

**BY OVERNIGHT MAIL**

AUSA Jason Cowley  
AUSA David Massey  
AUSA Daniel Levy  
U.S. Attorney's Office  
Southern District of New York  
One St. Andrew's Plaza  
New York, NY 10007

Re: Bank Frey & Co. AG

Dear Mr. Cowley:

As I let you know by telephone on December 17, 2012, we represent Bank Frey & Co. AG ("Bank Frey") in connection with the investigation being conducted by the U.S. Attorney's Office for the Southern District of New York and the Criminal Investigation Division of the Internal Revenue Service.

You have asked Bank Frey to produce voluntarily otherwise confidential information and records in the form of documents relating to U.S. persons who may have accounts with Bank Frey over the last five years. Enclosed are documents marked "Confidential" BF000001-BF000635 responsive to your request. Additionally, Annual Reports for the years 2009, 2010, and 2011 are available for download and review on Bank Frey's website at [www.bank-frey.com](http://www.bank-frey.com). Finally in this regard, Bank Frey is continuing to attempt to locate other information responsive to your request.

Bank Frey is producing this information in an effort to cooperate with the Government's investigation. Although Bank Frey is producing this information voluntarily and not pursuant to grand jury subpoena or other legal process, we ask that you treat this information as secret



AUSA Jason Cowley  
AUSA David Massey  
AUSA Daniel Levy  
U.S. Attorney's Office  
Southern District of New York  
January 15, 2013  
Page 2

pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure. Further, although Bank Frey is producing this information voluntarily and not pursuant to grand jury subpoena or other legal process, Bank Frey intends no waiver of any rights or privileges by this production, including, for example, issues of jurisdiction or attorney-client privilege. Please be advised that Bank Frey is not producing a handful of documents that we are reviewing for the applicability of the attorney-client privilege. Finally, although Bank Frey is producing this information voluntarily and not pursuant to grand jury subpoena or other legal process, Bank Frey intends no violation of law by this production, including, for example, Swiss bank secrecy requirements.

Bank Frey's regular outside U.S. counsel Samuel Levy, Esq., has forwarded to me the tolling agreement that you sent to him on December 21, 2012. I have signed it on Bank Frey's behalf and enclose it. Note (as I have mentioned in previous email correspondence) that I have limited the tolling agreement's applicability to Bank Frey and not "Frey Group Holding and all its subsidiaries," as Bank Frey is the relevant party here.

I am looking forward to meeting you next week (January 22, 2013 at 10:30 a.m.) at your office to discuss the status of the investigation, now that Bank Frey has made this initial production of information and executed the tolling agreement.

In the meantime, please do not hesitate to contact me if you have any questions. Thank you for your attention.

Very truly yours,

A handwritten signature in black ink that reads "Henry E. Klingeman". The signature is written in a cursive, flowing style. Below the signature, the name "HENRY E. KLINGEMAN" is printed in a bold, all-caps, sans-serif font.

HENRY E. KLINGEMAN

Enclosures



60 PARK PLACE, SUITE 1100, NEWARK, NJ 07102 973-424-9777 WWW.KROVATIN.COM

GERALD KROVATIN  
HENRY E. KLINGEMAN\*\*  
HELEN A. NAU\*  
ANNA G. COMINSKY\*

ALSO ADMITTED IN HI AND PA\*\*  
ALSO ADMITTED IN NY\*

February 12, 2013

**BY OVERNIGHT MAIL**

AUSA Jason Cowley  
AUSA Daniel Levy  
U.S. Attorney's Office  
Southern District of New York  
One St. Andrew's Plaza  
New York, NY 10007

Re: Bank Frey & Co. AG

Dear AUSAs Cowley and Levy:

We met with you on January 22, 2013 on behalf of Bank Frey & Co. AG ("Bank Frey") in connection with the investigation being conducted by the U.S. Attorney's Office for the Southern District of New York and the Criminal Investigation Division of the Internal Revenue Service. During the meeting, you asked us to provide draft English language translations of German language documents produced to you the week prior to the meeting. Also during the meeting, you posed a series of questions to us, about which more below.

In furtherance of Bank Frey's efforts to cooperate with your investigation, enclosed please find draft English language translations of German language documents already provided to you. The enclosed draft English language translations are being produced pursuant to our agreement that: (1) any translation of any document provided by Bank Frey that is marked "draft" shall be regarded by the Government as a draft; and (2) any draft translation will not be used at any proceeding to conduct examination of any witness or to impeach or call into question the accuracy of any final translation, as confirmed in your email to me of January 22, 2013 (copy enclosed). These translations were produced by and at the direction of Bank Frey's counsel and should not be treated as anything but draft aids. We do not intend them to be material statements upon which the Government should rely conclusively and without verification by the Government's own translation expert. For your reference, we have marked the draft English





AUSA Jason Cowley  
AUSA Daniel Levy  
U.S. Attorney's Office  
Southern District of New York  
February 12, 2013  
Page 2

language translations of German language documents with the corresponding Bates numbers from Bank Frey's original document production. Please note that the English translations of the executive management minutes only include sections that appear relevant to Bank Frey's counsel.

Bank Frey will continue to produce, subject to the same procedure, additional drafts of this confidential information voluntarily in an effort to cooperate with the Government's investigation and intends to produce such information to you on a rolling basis. Although Bank Frey is producing this information voluntarily and not pursuant to grand jury subpoena or other legal process, we ask that you treat this information as secret pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure. Further, although Bank Frey is producing this information voluntarily and not pursuant to grand jury subpoena or other legal process, Bank Frey intends no waiver of any rights or privileges by this production, including, for example, issues of jurisdiction or attorney-client privilege. Finally, although Bank Frey is producing this information voluntarily and not pursuant to grand jury subpoena or other legal process, Bank Frey intends no violation of law by this production, including, for example, Swiss bank secrecy requirements.

Also during our January 22 meeting, you asked us a series of questions and made some additional documentary requests. We are in the process of gathering information in response to those questions and requests. In addition, we anticipate providing written and documentary information that we anticipate will assist you in evaluating Bank Frey's conduct. Finally, we hope to schedule another meeting with you to address thoroughly your concerns.

In the meantime, please do not hesitate to contact me if you have any questions. Thank you for your attention.

Very truly yours,

A handwritten signature in black ink, appearing to be "H. E. Klingeman", written over a horizontal line.

HENRY E. KLINGEMAN

Enclosures

**Helen A. Nau**

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**From:** Henry E. Klingeman  
**Sent:** Tuesday, January 22, 2013 3:33 PM  
**To:** Levy, Daniel (USANYS)  
**Cc:** Cowley, Jason (USANYS); Helen A. Nau  
**Subject:** RE: Bank Frey

**Categories:** Important emails

Got it. Thanks.

Nice to meet both of you in person today.

I will consult with my client on all issues and get back to you soon.

--hek

Henry E. Klingeman, Esq.

**Krovatin  
Klingeman LLC**  
ATTORNEYS AT LAW

KROVATIN KLINGEMAN LLC  
60 Park Place, Suite 1100  
Newark, NJ 07102  
Tel 973-714-3474  
Fax 973-424-9779  
Email [hklingeman@krovatin.com](mailto:hklingeman@krovatin.com)  
Web [www.krovatin.com](http://www.krovatin.com)

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**From:** Levy, Daniel (USANYS) [mailto:Daniel.Levy@usdoj.gov]  
**Sent:** Tuesday, January 22, 2013 12:28 PM  
**To:** Henry E. Klingeman  
**Cc:** Cowley, Jason (USANYS)  
**Subject:** Bank Frey

Henry,

This e-mail confirms that:

1. Any translation of any document provided by Bank Frey that is marked "draft" shall be regarded by the Government as a draft; and
2. Any draft translation will not be used at any proceeding to conduct examination of any witness or to impeach or call into question the accuracy of any final translation.

This e-mail also confirms that, as set out in the indictment of Wegelin, Swiss Bank C is Bank Frey.

Please let us know when you wish to make a further factual presentation.

Daniel W. Levy  
Assistant United States Attorney  
Southern District of New York  
One St. Andrew's Plaza  
New York, New York 10007  
Tel (main): 212-637-2200  
Tel (direct): 212-637-1062  
Fax: 212-637-2429 or -2240  
E-mail: [daniel.levy@usdoj.gov](mailto:daniel.levy@usdoj.gov)

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60 PARK PLACE, SUITE 1100, NEWARK, NJ 07102 973-424-9777 WWW.KROVATIN.COM

GERALD KROVATIN  
HENRY E. KLINGEMAN\*\*  
HELEN A. NAU\*  
ANNA G. COMINSKY\*

ALSO ADMITTED IN HI AND PA\*\*  
ALSO ADMITTED IN NY\*

March 28, 2013

**BY OVERNIGHT MAIL**

AUSA Jason Cowley  
AUSA Daniel Levy  
U.S. Attorney's Office  
Southern District of New York  
One St. Andrew's Plaza  
New York, NY 10007

Re: Bank Frey & Co. AG

Dear AUSAs Cowley and Levy:

On behalf of Bank Frey & Co. AG ("Bank Frey") in connection with the investigation being conducted by the U.S. Attorney's Office for the Southern District of New York and the Criminal Investigation Division of the Internal Revenue Service, enclosed please find additional draft English language translations of German language documents already provided to you.

The enclosed draft English language translations are being produced pursuant to our agreement that: (1) any translation of any document provided by Bank Frey that is marked "draft" shall be regarded by the Government as a draft; and (2) any draft translation will not be used at any proceeding to conduct examination of any witness or to impeach or call into question the accuracy of any final translation, as confirmed in your email to me of January 22, 2013 (copy enclosed). These translations were produced by and at the direction of Bank Frey's counsel and should not be treated as anything but draft aids. We do not intend them to be material statements upon which the Government should rely conclusively and without verification by the Government's own translation expert. For your reference, we have marked the draft English language translations of German language documents with the corresponding Bates numbers from Bank Frey's original document production. Please note that the English translations of the board of directors minutes only include sections that appear relevant to Bank Frey's counsel.



AUSA Jason Cowley  
AUSA Daniel Levy  
U.S. Attorney's Office  
Southern District of New York  
March 28, 2013  
Page 2

Bank Frey will continue to produce, subject to the same procedure, additional drafts of this confidential information voluntarily in an effort to cooperate with the Government's investigation and intends to produce such information to you on a rolling basis. Although Bank Frey is producing this information voluntarily and not pursuant to grand jury subpoena or other legal process, we ask that you treat this information as secret pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure. Further, although Bank Frey is producing this information voluntarily and not pursuant to grand jury subpoena or other legal process, Bank Frey intends no waiver of any rights or privileges by this production, including, for example, issues of jurisdiction or attorney-client privilege. Finally, although Bank Frey is producing this information voluntarily and not pursuant to grand jury subpoena or other legal process, Bank Frey intends no violation of law by this production, including, for example, Swiss bank secrecy requirements.

We are still in the process of gathering information in response to your previous questions and requests. We anticipate providing additional written and documentary information that we anticipate will assist you in evaluating Bank Frey's conduct in the near future. Finally, we hope to schedule another meeting with you to address thoroughly your concerns.

In the meantime, please do not hesitate to contact me if you have any questions. Thank you for your attention.

Very truly yours,

A handwritten signature in black ink, appearing to read "Henry E. Klingeman". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

HENRY E. KLINGEMAN

Enclosures

**Helen A. Nau**

---

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I will consult with my client on all issues and get back to you soon.

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Henry E. Klingeman, Esq.

**Krovatin**  
**Klingeman** LLC  
ATTORNEYS AT LAW

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Email [hklingeman@krovatin.com](mailto:hklingeman@krovatin.com)  
Web [www.krovatin.com](http://www.krovatin.com)

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Please let us know when you wish to make a further factual presentation.

Daniel W. Levy  
Assistant United States Attorney  
Southern District of New York  
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Tel (direct): 212-637-1062  
Fax: 212-637-2429 or -2240  
E-mail: [daniel.levy@usdoj.gov](mailto:daniel.levy@usdoj.gov)